IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 13419 of 2004

Between:

Dantuluri Venkata Rama Raju S/o Sri Janaki Rama Raju
C/o Sridhar, Sairam Apartments, Near Pallavi Hospital Beside street, Maharanipeta, Visakhapatnam.

..... PETITIONER

AND

1. Sub-Inspector of Police IV Town L & O Police Station, Visakhapatnam.
2. The Commissioner of Police, Visakhapatnam City, Commissionerate, Visakhapatnam.
3. S.L.P.Raju S/o Sri Subba Raju, R/o D.No.50-52-3, Seethammadhara N.E. Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction directing the first and Second respondents to register the Crime and initiate investigation and further declare the inaction of the respondents and the delay caused in initiating the proceedings as illegal, arbitrary and consequentially direct the first & Second respondents for payment of compensation to the petitioner.

Counsel for the Petitioner: MR.C.NAGESWARA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

The Court at the admission stage made the following :

ORDER:

The petitioner states that he made a complaint dated 24-09-2003, with the IV Town Law and Order Police Station, Vishakapatnam, with regard to the alleged incident happened on 23-09-2003 at about 10:15 P.M, in which the 3rd respondent along with several other goondas trespassed into the house of the petitioner and damaged all the household articles. Since the 1st respondent-Sub Inspector of Police IV Town Law and Order Police Station, Vishakapatnam, was not available in the police station, the petitioner approached the 2nd respondent-Commissioner of Police, Vishakapatnam, in person and orally informed him about the entire incident dated 23-09-2003, and also explained about the non-availability of the 1st respondent. The petitioner further states that the 2nd respondent contacted the 1st respondent over phone and directed him to take necessary action. Thereafter, the petitioner sent the report by registered post with acknowledgment due, which was received by the 1st respondent. However, the 1st respondent failed to take any action on the basis of the said complaint of the petitioner. Hence this writ petition, seeking a declaration that the inaction on the part of the respondents is arbitrary and illegal and consequently, direct the 1st and 2nd respondents to register the crime and initiate investigation.

On behalf of the respondents, the 1st respondent filed a counter affidavit stating that the report sent by the petitioner dated 24-09-2003, has been received by the then Sub Inspector of Police, IV Town Law & Order Police Station, who made enquires and found that there was no truth in the allegations contained therein. It was also found that there are civil disputes between the petitioner's mother and the 3rd respondent with regard to the Ravishankar Parlour-9, which is pending before the Court of the learned Principal Junior Civil Judge, Vishakapatnam, in O.S.No.2584 of 2003 and that a false complaint has been lodged by the petitioner in view of the civil disputes pending with the 3rd respondent. Thus, on the basis of the report, an enquiry has been made, but the allegations were found to be false and therefore, the alleged inaction on their part is incorrect.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Home, appearing for the respondents.

Learned counsel for the petitioner, while placing reliance upon the decision rendered by the Apex Court in **"MOHINDRO v. STATE OF PUNJAB AND**

OTHERS", contended that when a complaint of cognizable offence has been reported, police are required to register the same and then enquire into the offence. Hence, the plea of the respondents that they have enquired into the offence without registering the First Information Report, cannot be accepted and appropriate directions be issued to the respondents to register the crime and then to make further investigation.

In the said case, the Apex Court, while considering an identical issue, observed that there cannot be any enquiry without registering a case, and allowed the appeal with a direction that a case be registered on the basis of the report to be lodged by the appellant therein and thereafter the matter shall be duly investigated into and appropriate action be taken accordingly.

In the light of the decision rendered by the Apex Court, I find force in the contention of the learned counsel for the petitioner and accordingly, I deem it appropriate to dispose of the writ petition with a direction to the respondents to register a case on the basis of the report of the petitioner dated 24-09-2003, and thereupon to make the necessary investigation and take appropriate further steps in accordance with law expeditiously.

The writ petition is accordingly disposed of. No costs.

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22-09-2004

vs

To

1. Sub-Inspector of Police IV Town L & O Police Station, Visakhapatnam.
2. The Commissioner of Police, Visakhapatnam City, Commissionerate, Visakhapatnam.1.2CCs to

3. Two C.Cs to the G.P. for Home, High Court Buildings, High Court of Andhra Pradesh, Hyderabad. (OUT).
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